

necessary amendments to its national legislation, and in particular to the provisions mentioned above to ensure the full application, in law and in practice, of this Article.

Articles 5 and 10 of Convention No. 118. Payment of benefits abroad. The Committee notes that section 161 of the Social Pensions Regulations of 1981 expressly provides that pensions or other cash benefits may be transferred to beneficiaries resident abroad only where that is envisaged by agreements to which Libya is a party. The Committee recalls once more that, in accordance with *Article 5* of the Convention (read in conjunction with *Article 10*), each Member which has ratified the Convention must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, as well as to refugees and stateless persons, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits, death grants and employment injury pensions. **The Committee requests the Government to take the necessary measures to give effect to Articles 5 and 10 of the Convention by ensuring that pensions and cash benefits can be paid to workers and their survivors, including refugees and stateless persons, residing abroad regardless of the existence of bilateral agreements between Libya and the other Member State in which they reside.**

Netherlands

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
(ratification: 1966)

Previous comment: [direct request](#)

The Committee notes the observations of the National Federation of Christian Trade Unions (CNV), the Netherlands Trade Union Confederation (FNV), and the Trade Union Federation for Professionals (VCP), received on 31 August 2021 and 31 August 2022 and requests the Government to provide its reply to them

Article 14 of the Convention. Minimum degree of loss of earning capacity. The Committee previously observed that a minimum degree of 35 per cent incapacity for the entitlement to the cash benefits under the Work and Income (Employment Capacity) Act of 2006 (WIA) was set too high to comply with *Article 14*. The Committee notes the indication by the Government in its report that the minimum degree of 35 per cent incapacity was set in an agreement with the trade unions and the employers' organizations. The Government further indicates that according to the financial assessments, the reduction of the minimum degree would lead to higher costs and entail major adjustments of the scheme which requires a complex and thorough analysis.

The Committee notes the observations of the CNV, the FNV, and the VCP indicating that: (1) for many years, they have been proposing that the minimum degree of incapacity should be lowered from 35 per cent to 15 per cent; (2) contrary to the original purpose of the WIA according to which persons with less than 35 per cent of incapacity were supposed to stay on the labour market, it appears in practice that the loss of 35 per cent capacity for work or less often constitutes an obstacle for employers to keep such workers; and (3) a substantial group of people fall outside the income protection provided under the WIA requiring the minimum degree of 35 per cent incapacity.

The Committee recalls that according to *Article 14* of the Convention, the degree of loss of earning capacity for which cash benefits become payable shall be prescribed in such a manner as to avoid hardship. The Committee further recalls that according to *Article 14* of the Convention, cash benefits in excess of such minimum degree may take the form of periodical payments or lump-sum payments if partial loss of earning capacity is not substantial. In this respect, the Committee previously observed that incapacity below 25 per cent could be regarded as not substantial and compensated by lump-sum payments, in line with Paragraph 10 of the Employment Injury Benefits Recommendation, 1964

(No. 121). The Committee also pointed out to the fact that, depending on the existence of other complementary income guarantees, lump-sum compensation had been considered by the Committee to be in compliance with the Convention in certain cases for incapacity up to 35 per cent. However, the WIA provides for neither periodic cash benefits, nor lump-sum payments in case of incapacity below 35 per cent.

While taking due note of the explanations provided by the Government, the Committee recalls its earlier position and analysis and is still of the opinion that the minimum degree of 35 per cent incapacity for the entitlement to cash benefits is not in compliance with the provisions of *Article 14* of the Convention. **The Committee urges the Government, without further delay, to take the necessary measures in full consultation with the most representative trade union and employers' organizations to bring the national legislation in line with Article 14 of the Convention by ensuring that persons with incapacity below 35 per cent are entitled to cash benefits in case of employment injury, and to report on the measures taken for that purpose.**

Article 14(2), in conjunction with Articles 6(c) and 22(1). Total loss of earning capacity likely to be permanent. The Committee previously observed that a person who is completely (at least 80 per cent) and permanently incapable for work shall be entitled to the benefits under the Income Provision for Persons with Full Occupational Disability Scheme (IVA benefits), as per section 47 of the WIA. The IVA benefit amounts for 75 per cent of the previous monthly wage but it is subject to reduction if a beneficiary earns an income (sections 51-52 of the WIA). In this respect, the Committee observes that the Convention does not authorize any reduction of cash benefits in case a fully incapacitated person earns additional income from any gainful occupation, leaving him or her free to combine invalidity benefit with work. The Committee recalls that according to *Article 6(c)* of the Convention, the definition of the contingency of total or partial loss of earning capacity likely to be permanent does not include actual suspension of earnings in comparison with, for example, the definition of temporary incapacity for work, as per *Article 6(b)* of the Convention. The Committee further recalls that the provisions of the WIA allowing the reduction of the IVA benefit in case a beneficiary earns income from a gainful occupation go beyond the requirements of *Article 22(1)* of the Convention which limits the grounds for suspension of benefits. **The Committee requests once again the Government to take the necessary measures, without further delay, to ensure that the IVA benefit is not subject to reduction when a beneficiary earns income from any gainful occupation, in line with Articles 14(2) and 22(1) of the Convention.**

Article 14(3), in conjunction with Article 9. Substantial partial loss of earning capacity likely to be permanent. (i) Entitlement conditions for the WGA wage-related benefit. The Committee previously noted that to be entitled to the benefits under the Resumption of Work for Persons with Partial Disability Scheme, WGA (WGA wage-related benefit), a person with incapacity for work of between 35–80 per cent was obligated to register as a jobseeker, make sufficient attempts to obtain suitable work, and accept an offer of such work (section 30 of the WIA). The entitlement to the WGA wage-related benefit depends on the insured being also entitled to unemployment benefit (section 58 of the WIA). Those not eligible for unemployment benefit can get the WGA wage supplement benefit or the WGA follow-up benefit (section 54(4) of the WIA).

The Committee recalls once again that subjecting the entitlement to the benefit to an obligation to make use of the remaining earning capacity is not foreseen by the Convention (*Articles 9 and 14(3)*). The Committee therefore considers that under the conditions prescribed by section 30 of the WIA, the WGA wage-related benefit is not in conformity with the requirements set out in the above-mentioned Articles of the Convention. **Considering that the WGA wage-related benefit shall not be subject to the conditions set out by section 30 of the WIA to be considered for the purpose of the application of the Convention, the Committee requests the Government to take the necessary measures to ensure the compliance of the entitlement conditions for the WGA wage-related benefit with Articles 9 and 14(3) of the Convention.**



(ii) *Qualifying period for the entitlement to the WGA wage-related benefit.* The Committee notes that the entitlement to the WGA wage-related benefit is subject to the qualifying period of employment for at least one working hour per calendar week in at least 26 calendar weeks (section 58 of the WIA). In this respect, the Committee recalls that under *Article 9(2)* of the Convention, eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions. **The Committee requests the Government to take the necessary measures to ensure that the entitlement to the WGA wage-related benefit is not subject to a requirement of completion of certain length of employment or the duration of insurance, in line with Article 9(2) of the Convention.**

(iii) *Duration of the WGA wage-related benefit.* The Committee notes that the WGA wage-related benefit is paid for at least three months and at most 24 months (section 59 of the WIA). It further observes that the duration of the WGA wage-related benefit is subject to the length of the previous employment period. In particular, one month of the payment of benefit is equal to one calendar year of employment (section 59 of the WIA). In this respect, the Committee recalls that the Convention does not permit the benefit to be affected by the length of employment and requires that the benefit is granted throughout the contingency (*Article 9(2) and (3)*). The Committee therefore considers that the WGA wage-related benefit may only be taken into account for the purpose of the application of the Convention in its minimum duration of three months. **The Committee thus requests the Government to take the necessary measures to ensure the compliance of the duration of the WGA wage-related benefit with Article 9(2) and (3) of the Convention, should the Government wish to consider the WGA wage-related benefit beyond its minimum duration for the purpose of the application of the Convention.**

Article 14(3), in conjunction with Article 9. Substantial partial loss of earning capacity likely to be permanent. Entitlement to the WGA wage supplement benefit. The Committee previously noted that the WGA wage supplement benefit was provided after the payment of the WGA wage-related benefit, or in case a person was not entitled to the WGA wage-related benefit (section 60 of the WIA). The Committee further observed that the WGA wage supplement benefit was subject to the income requirement that a person partially capable of work must earn per calendar month an income from work which is at least equal to 50 per cent of his or her remaining earning capacity (section 60 of the WIA). The Committee recalls once again that the requirement to use the residual earning capacity as a condition for entitlement is not in conformity with the Convention, which guarantees entitlement to benefits at the prescribed level without regard to the residual earning capacity and additional income which could be earned by the workers with partial incapacity (*Articles 9 and 14(3)*). **The Committee thus requests the Government to take the necessary measures to ensure the compliance of the entitlement conditions of the WGA wage supplement benefit with Articles 9 and 14(3) of the Convention, should the Government wish to consider the WGA wage supplement benefit for the purpose of the application of the Convention.**

Article 14(3), in conjunction with Article 19. Level of the WGA follow-up benefit. The Committee previously observed that the WGA follow-up benefit was a flat rate benefit calculated on the basis of the legal minimum wage and not as a percentage of the beneficiary's previous wage. The Committee, however, recalls that according to *Article 14(3)* of the Convention, the benefit for partial incapacity shall represent a suitable proportion of the benefit for total incapacity the level of which shall be at least of 60 per cent of the standard's beneficiary earnings (*Article 19 and Schedule II*). The Committee notes that the IVA benefit which is provided in case of total incapacity is determined as 75 per cent of the previous monthly wage (section 51 of the WIA). The Committee therefore considers that the WGA follow-up benefit does not represent a suitable proportion of the IVA benefit, particularly as regards persons with income above the legal minimum wage. **The Committee requests the Government to take the necessary measures, without further delay, to ensure that the level of the WGA follow-up benefit is in line with the requirements of Articles 14(3) and 19 of the Convention.**

Based on the above, the Committee notes with **deep concern** that the cash benefits provided under the Work and Income (Employment Capacity) Act of 2006 (WIA) do not ensure the level of



protection set out in the Convention on a range of issues and that, despite its comments on the non-compliance of the provisions of the WIA since 2007, no change has been made to the national legislation to bring it in line with the requirements of the Convention. **The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2025.]

Nicaragua

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) (ratification: 1934)

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1934)

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
(ratification: 1934)

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
(ratification: 1934)

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1934)

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1934)

[Previous comment](#)

In order to provide an overview of matters relating to the application of the ratified Conventions on social security, the Committee considers it appropriate to examine the application of Conventions Nos 12, 17, 18, 19, 24 and 25 in a single comment.

Article 1 of Conventions Nos 12, 17, 18, 19, 24 and 25. In its previous comments, the Committee emphasized the need to extend the coverage of the social security system and requested the Government to provide information on the progress made in this regard. As the Government's report does not contain specific information on this subject, the Committee notes the information contained in the Statistical Yearbook 2020, published in February 2021 by the Nicaraguan Social Security Institute (INSS), which shows that the numbers of persons registered with the social security system have fallen constantly since 2016, with a reduction of 27 per cent in the number of insured persons as a proportion of the economically active population and 35 per cent as a proportion of the population that is actually employed. The total number of insured persons fell from 914,196 in 2017 to 714,465 in 2020 (page 328). The Committee also observes that the proportion of the population covered by sickness insurance has decreased, as has the number of newly insured persons, falling from 124,802 to 59,603 (page 327). Moreover, according to the continuous household survey, published by the National Development Institute of Nicaragua in April 2021, the informal employment rate was around 45 per cent. The Committee also observes that, according to the ILO Social Protection Platform, in 2021, only 14.5 per cent of the population was effectively covered by at least one social protection benefit.

The Committee expresses **concern** at the above statistics, which point to a constant reduction in social insurance rates and in the number of persons protected, and an accelerating increase in the informal employment rate. In this regard, the Committee draws the Government's attention to *Article 1 of Conventions Nos 12, 17, 18, 19, 24 and 25*, which guarantee the effective coverage and protection of workers and their families in the event of disease and accidents, whether occupational or of any other type. **In light of the above, the Committee urges the Government to:**

- (i) **provide comprehensive statistical data on the current coverage of the social security system, disaggregated by branch in the various sectors of activity (industry, agriculture,**